

03M-06-001 E

May 30, 2003

Hon. E. Scott Bradley
 Superior Court
 Geo. Co. PA 19447

03 JUN - 5 AM 11:15
 PROTHONOTARY
 SUSSEX CO.

FILED

Re: Enclosed Writ of HABEAS Corpus

Dear Judge Bradley:

I HAVE RECEIVED THE RELEVANT CASE
 JEW ON THE SUBJECT MATTER APPLICATION OF 11325A
 AND FOUND THERE IS "NO" CASE JEW ON THIS.

I'VE ALSO APPLIED THE BENCH BOOK AS TO
 THE DEAD OFFENCE SENTENCED UNDER AND I AM ABOUT
 24RS OVER THE MAXIMUM AMOUNT UNDER THE BENCH
 BOOK ON THIS SENTENCE I AM CURRENTLY UNDER
 AND GIVEN THIS, THE COMMITMENT IS "NOT" REQUIRED
 ON ITS FACE. JONES V. ANDERSON Del. Super. (183A.2d
 177, 178 (1962) CITING CRAIN V. WOODLEY Del. Super. 104
 A.2d 771 (1954) THUS, THE WRIT MUST ISSUE.

xc: file

ATTACHMENTS: (1) Writ of
 HABEAS CORPUS.

Sincerely yours,

X

Donald E. Proctor Jr.
 1181 Yorklock Rd
 Souderton, Pa. 19461

IN THE Superior COURT OF THE STATE OF DELAWARE
IN AND FOR Sussex COUNTY

IN THE MATTER OF THE PETITION OF) C.A. No. 03M-06-001
Ronald E. Proctor Jr.) Habeas Corpus

The State of Delaware,

You are Commanded:

To have Ronald E. Proctor who is allegedly detained in your custody, before the Superior Court of the State of Delaware, at the County Court House at Georgetown, Delaware immediately after the receipt of this Writ; and to abide any order which the Court shall make concerning Petitioner.

And further, to certify fully in writing under oath the true cause of said detention, and to have there a copy of all process or orders, if any, under which he is detained and also this Writ.

Prothonotary

Dated: _____

To the above named Respondent:

In case of your failure to produce _____ as above commanded, and fully certify in writing under oath the true cause of his detention, with a copy of all process or orders, if any, under which he is detained, within 3 days after service hereof upon you if the place where he is detained is not more than 20 miles from the County Court House, or within 6 days if such place is more than 20 miles, you may be adjudged to be in contempt of court.

Prothonotary

IN THE ~~Superior~~ COURT OF THE STATE OF DELAWARE
IN AND FOR ~~Sussex~~ COUNTY

IN THE MATTER OF
Kondak E. Proctor Jr.
for a writ of habeas corpus.

C.A. No. 03M-06-00

MEMORANDUM IN SUPPORT OF WRIT OF HABEAS CORPUS

The above defendant submits this memorandum in support of his petition for writ of habeas corpus. Petitioner states the following in support:

1. The criminal action number in this case is 98-11-0576
Then 0585-TD No. 98-013934
2. Your petitioner is being unlawfully restrained of his liberty in violation of the laws of the State of Delaware, by reason of ① Defendant Was Extradited To Delaware on 2-4-01 § 2501-2550 ② Defendant Was Sentenced on 11-2-02 under 11S:4214(A) Habitual Offender Law. ③ 11S:2549 Prohibition in Imposing Habitual Offenses Дано Any Person on Account of An Conviction had in A Proceeding brought To final disposition by Reason of The use of The Agreement. (See Exhibit "A")

WHEREFORE, petitioner prays the petition issue and the writ granted.

X 
Kondak E. Proctor Jr. 16375C
Delaware Correctional Center
Smyrna, DE 19977

Dated: May 30, 2003

6/23/03

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
THE CIRCLE
P.O. Box 746
GEORGETOWN, DELAWARE 19947
TELEPHONE (302) 856-5256

June 19, 2003

Ronald E. Proctor, Jr.
SBI# 00163750
Delaware Correctional Center
P.O. Box 500
Smyrna, DE 19977

RE: C.A. No. 03M-06-001

Dear Mr. Proctor:

This is my decision on your Writ of Habeas Corpus. You have raised two arguments in support of your writ. One, you argue that your sentence on the charge of Reckless Endangering in the First Degree exceeds the Sentencing Accountability Commission ("SENTAC") guidelines by two years.¹ There is no merit to this argument because the SENTAC guidelines do not limit your sentence.² You could have received a sentence of up to life imprisonment under 11 Del. C. § 4214(a). Therefore, you have no grounds for relief because the six-year sentence that you did receive was within the statutory limits prescribed by the legislature.³ Two, you argue that 11 Del. C. § 2549 prohibits you from being sentenced as a habitual offender because you were extradited from Florida to Delaware to face charges pending in Delaware.⁴ You have misread

¹Proctor was originally sentenced, as a habitual offender under 11 Del. C. § 4214(a), to six years at supervision level V. The sentencing guidelines set forth a presumptive sentence of 30 months at supervision level V where the defendant has two or more prior felonies. Proctor does have at least two prior felonies.

²Gaines v. State, 571 A.2d 765, 767 (Del. 1990).

³Id.

⁴11 Del. C., § 2549 states: Nothing in this agreement shall be construed to require the application of the habitual offenders law to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of the agreement.

section 2549. Section 2549 only states that the agreement on detainers does not require the application of the habitual offenders law. This is different from prohibiting the application of the habitual offenders law. There is simply no merit to either of the arguments that you have raised. Since you are being held pursuant to a lawful sentencing order, your Writ of Habeas Corpus is denied.

IT IS SO ORDERED.

Very truly yours,



E. Scott Bradley

ESB:tll

cc: Prothonotary's Office
Prothonotary's Office (9809013934)